



Greater Yellowstone Coalition

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February 19, 2009

House Local Government Committee

Rep. Elsie Arntzen (Chair)

Rep. Betsy Hands (Vice-Chair)

Rep. Gary MacLaren (Vice-Chair)

Representatives Becker, Bennett, Berry, Driscoll, Ebinger, Grinde, Hamilton, Ingraham, Menahan, More, Reichner, Reinhart, Sands, Stahl, and Vance

Dear Chairwoman Arntzen and Members of the Committee:

On behalf of the Greater Yellowstone Coalition, I am writing to express our strong support for House Bill 455, the Big Sky Rivers Act.

The Greater Yellowstone Coalition is a Bozeman-based non-profit conservation organization of 20,000 members and supporters dedicated to protecting the lands, waters and wildlife of the Greater Yellowstone Ecosystem. Thousands of our members live in Montana and fish, boat, and otherwise recreate on the 10 rivers that would be affected by the Big Sky Rivers Act.

The issue of riverside development is one that we have been deeply involved with for over a decade. The Greater Yellowstone Coalition was a lead proponent of statewide stream setback bills in the 2005 and 2007 legislative sessions. We learned a lot from those two defeats. Over the past four years we have listened to the concerns of legislators, ranchers, realtors, sportsmen and local government officials in order to craft a compromise bill that both protects public resources (e.g. water quality and fish and wildlife) and respects private property rights. We believe House Bill 455 strikes that balance as well as it possibly can.

An overwhelming majority of Montanans agree there is a dire need to address the issue of development along our largest, most flood prone, and most prized recreational rivers. Recent polling conducted in counties across southwest Montana shows that nearly 80 percent of respondents feel new development should be kept off riverbanks, out of mapped floodplains, and away from wildlife-rich riparian habitats.

Opponents of House Bill 455 say the issue of streamside development is one that is best left to local governments to decide. In an ideal world, that would happen. Unfortunately, not a single county in Montana has implemented a comprehensive set of regulations to guide streamside development. While about 20 Montana counties have some form of streamside setbacks in place, in

People protecting the lands, waters, and wildlife of the Greater Yellowstone Ecosystem, now and for future generations.

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virtually every case those setbacks apply only to new subdivisions. Much of the development that is occurring along our rivers is in the form of individual homes that are exempt from these regulations.

There are also some opponents of House Bill 455 who claim it constitutes a "takings" under the fifth amendment of the United States Constitution. However, attorneys who are experts in this field say otherwise. To ensure that no landowner is deprived of an opportunity to build on their property, House Bill 455 states that if a landowners' entire property is located within the 250-foot streamside management area, he/she can obtain a variance from their local government. **Under no circumstances would House Bill 455 completely deprive a landowner of the ability to build a home on his/her land.**

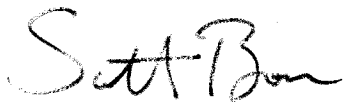
The concept of restricting development in hazard prone areas along Montana's rivers and streams is not a new one. Under existing state statute, it is already illegal to construct homes and commercial buildings in mapped floodways – that portion of the 100-year floodplain that is most vulnerable to severe flooding and erosion. All House Bill 455 does is take that same concept and extend that zone outward in order to better protect people, property, water quality, and fish and wildlife.

In conclusion, we strongly urge you to vote for the Big Sky Rivers Act. This is the third time the Legislature has considered a bill to restrict new development along Montana's waterways. Several important concessions were made in order to make House Bill 455 a better bill than previous iterations. This time, it is limited to just 10 rivers that are experiencing intense development pressure. It exempts incorporated cities and towns as well as central sewer districts. It exempts agricultural buildings. And most importantly, House Bill 455 allows local governments to narrow or widen the 250-foot streamside management area in recognition that one size does not fit all.

House Bill 455 is not perfect – no legislation is. However we believe it strikes an excellent balance between protecting public resources and respecting private property rights. If the Legislature does not pass the Big Sky Rivers Act this year, the problems associated with building along flood-prone rivers will only get worse over time. Now is the time to tackle this issue.

Thank you for considering our comments.

Sincerely,

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Scott Bosse
Director of Aquatic Conservation

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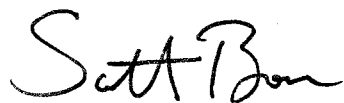
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